

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

GINA TORRES, ET AL.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:19-CV-1525
)	
CITY OF ST. LOUIS, ET AL.,)	
)	
Defendants.)	
)	

DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT

COME NOW Defendants Lance Coats, Glennon P. Frigerio, Joshua D. Becherer, Nicholas J. Manasco, Ronald Allen Jr., John C. Jones, Mark S. Seper, Jon B. Long, Tim Boyce, and Benjamin Lacy (collectively “Defendant Officers”), and the City of St. Louis (“City”), by and through counsel, and pursuant to Rule 56 of the Federal Rules of Civil Procedure, hereby submit their motion for summary judgment. In support thereof, the following statements are made:

1. On June 7, 2017 Isaiah Hammett (“Hammett”) opened fire on the City SWAT team with an AK-47-style semiautomatic rifle after the police officers announced their presence and while the officers were executing a lawful search warrant.
2. Shortly thereafter, Hammett emerged from a threshold in the back of the house carrying the AK-47-style rifle shouldered just below his sights and pointed it in the officers’ direction. Perceiving Hammett to pose an immediate threat of death or serious bodily harm, seven of the Defendant Officers fired at Hammett, who was shot and killed.
3. Plaintiffs Gina Torres and Dennis Torres filed the instant lawsuit asserting various

federal and state law claims against the Defendant Officers and City stemming from this incident.

4. There is no genuine issue of material fact that Defendant Officers are entitled to qualified immunity on Plaintiffs' § 1983 claims (Counts I, II, V, and VI) and official immunity on the state law claims (Counts IV and VIII).

5. The undisputed record will establish that no constitutional violation occurred because the use of deadly force by Defendant Officers Long, Manasco, Becherer, Seper, Coats, Frigerio, Allen, and Jones was objectively reasonable, and the record establishes that Boyce and Lacy did not employ any force against Hammett.

6. Plaintiffs cannot set forth any evidence sufficient to establish that the Defendant Officers conspired to deprive Plaintiffs of their constitutional rights, and Plaintiffs' conspiracy claims are further barred by the intracorporate conspiracy doctrine and qualified immunity.

7. City is entitled to summary judgment on Counts III and VII because there is no genuine issue of material fact that the City did not have a policy, practice or custom that caused a constitutional violation.

8. City further asserts that sovereign immunity shields it from Plaintiffs' state law claims (Counts IV and VII).

9. A memorandum of law in support of this motion is filed herewith and incorporated herein by reference.

WHEREFORE, for all of the reasons set forth above, Defendants respectfully requests that this honorable Court grant summary judgment in favor of Defendants and against Plaintiffs.

Respectfully submitted,

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CITY COUNSELOR

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CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2020, the foregoing was electronically filed with the Clerk of the Court to be served by operation of the Court's electronic filing system.

/s/ Andrew D. Wheaton